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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	CASE NO. CR 2:03-104 MCE-GGH
)	
Plaintiff,)	
)	UNITED STATES' MOTION FOR LEAVE
v.)	TO FILE RESPONSE AND RESPONSE
)	TO DEFENDANT'S "MOTION FOR
CY BROWN,)	LEAVE TO FILE SUPPLEMENTAL
)	ISSUES"
Defendant.)	
)	

The United States respectfully requests leave to file this short response to the Defendant's "Motion for Leave to File Supplemental Issues." The undersigned AUSA was in complex fraud trial until recently. United States v. Harrison (Cr. No. 2:04-CR-118 WBS). Only yesterday a defendant's guilty plea resolved the case of a severed co-defendant that had been set for trial on October 15, 2008. United States v. Oliver (Cr. No. 2:04-CR-118 WBS).

The United States opposes leave for the Defendant to supplement his claims with anything more than his claim of ineffective assistance in his re-sentencing.

Supplemental Claim One:

The Defendant has not established good cause for his failure

1 to raise speedy trial issues in his first petition. Whatever
2 facts might (or might not) have supported a speedy trial claim
3 have been known to the Defendant for years. The authority the
4 Defendant cites does not establish that an ineffective assistance
5 of counsel claim based on failure to assert speedy trial rights
6 is jurisdictional. United States v. Doggett, 505 U.S. 647, 658
7 n.3 (1992), held that a conditional guilty plea did not waive
8 speedy trial challenge because plea agreement expressly reserved
9 right to appeal on that issue. Id. It is not clear why Gosa v.
10 Mayden, 413 U.S. 665 (1973), is relevant at all.

11 The Defendant argues that counsel did not research or
12 investigate Speedy Trial or IADA claims. He has no idea if this
13 is true. Moreover, he does not establish that such research or
14 investigation would have uncovered a valid claim. Thus, he has
15 not even made a superficial showing of prejudice under
16 Strickland.

17 **Supplemental Claim Two:**

18 If the Defendant wants to litigate whether counsel was
19 ineffective in representing him in his opportunity for re-
20 sentencing, the United States has no opposition. The Defendant's
21 remedy is likely simply to be re-sentencing. In that event, the

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1 United States will present to the District Court the Defendant's
2 conduct in this Section 2255 proceeding, which may be relevant to
3 whether the Defendant's sentence should be **increased**.

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5 Respectfully Submitted,

6 McGREGOR W. SCOTT
7 United States Attorney

8 DATE: October 16, 2008

By: /s/ Matt Segal
9 MATTHEW D. SEGAL
Assistant U.S. Attorney

10
11 **ORDER**

12 The United States' Motion for Leave to File Response is
13 GRANTED.

14 DATE:10/16/08

/s/ Gregory G. Hollows

15 HON. GREGORY G. HOLLOWS
16 U.S. Magistrate Judge

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